

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NATIONAL LABOR RELATIONS BOARD

Petitioner

and

1199 SEIU UNITED HEALTHCARE WORKERS, NJ REGION

NOS. 11-3440
et al

Intervenor

V

NEW VISTA NURSING AND REHABILITATION

Respondent

ANSWER TO MOTION BY THE NLRB FOR REMAND OF THIS MATTER

1) New Vista Nursing and Rehabilitation (“New Vista”) joins in the motion of the NLRB to remand this matter. It contends, however, that the Court should remand the matter for disposition by the Board but should not do so for only the requested 30 day period.

2) There is no assurance that the board will rule on the *three* motions for reconsideration within 30 days. Indeed, the August motion alone was decided only at the end of December. Moreover, New Vista will likely seek the recusal of Member Hirozawa, a partner in the law firm representing the intervenor in this matter. Member Hirozawa’s recusal, along with Member Pearce’s already having recused himself in this matter, could pose an issue of whether a valid quorum could decide the motions. The result could be repeated motions for extensions of the 30 days requested which will take up the Courts’, and the parties’, resources.

3) Because of the forgoing, the Court should, it is respectfully submitted, remand to the Board the disposition of the three motions, but it should not limit the remand to the Board to a 30 day period. If the Court desires, of course, it can hold this case until there is a proper disposition of the motions for reconsideration. This is clearly authorized by section 10(e) of the National Labor Relations Act.

WHEREFORE, New Vista respectfully requests that the motion to remand this matter should be granted but without a 30 day limitation period.

/S/ _____

MORRIS TUCHMAN